



Judicial Council of California

Administrative Office of the Courts

Trial Court Financial Policies and Procedures

Procedure No.
Page

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GIFTS OF PERSONAL PROPERTY

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Gifts of Personal Property

1.0 Purpose

The purpose of this policy is to establish uniform guidelines for the trial court to use in deciding what unsolicited gifts of personal property it may accept and acknowledging, documenting, monitoring, accounting for, and reporting those gifts.

2.0 Policy Statement

1. The trial court will not solicit gifts from private individuals or entities¹, or accept gifts of real property. Pursuant to Rule of Court 6.102, the Administrative Director of the Courts has delegated to the Court Executive Officer the authority to accept unsolicited gifts of personal property on behalf of the court. The Court Executive Officer will decide whether acceptance of a gift of personal property and any terms and conditions is in the best interest of the court and, therefore, the State of California. In making this decision, the Court Executive Officer will consider the factors listed in the Administrative Director of the Court's written delegation of authority.
2. The trial court will acknowledge, document, inventory, account for, monitor, and report all gifts of personal property that it accepts and will use such gifts only for the purposes provided herein.
3. The trial court will refer any unsolicited offer of a gift of real property to the Administrative Director of the Courts, for a decision regarding acceptance pursuant to Rule of Court 6.102 (see Appendix C).

¹ This prohibition does not extend to private grant applications. The court may apply for private grants in accordance with the requirements established in AOC FIN 5.04 and any further guidance that the AOC may issue.

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4.0 Application

This policy applies to all trial courts, including their officers and employees.

5.0 Definitions

The definitions provided below apply to this policy and are for the express purpose of interpreting this policy.

1. **Appraisal.** An independent estimate or determination of the fair market value of a donation. An appraisal is generally prepared by a qualified appraiser or, in some cases, by an expert knowledgeable about the particular object in question. (If the fair market value of a non-financial gift exceeds \$5,000, the donor should provide a copy of an appraisal to the court).
2. **Donation.** A voluntary transfer of property (e.g., a financial gift or a non-financial gift) made without expecting or receiving anything of value in return.

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3. **Fair Market Value.** The price that an item or service would carry in an open market between a willing buyer and a willing seller in an arms-length transaction, where each party has full knowledge of the facts.
4. **Financial Gift.** A voluntary donation of currency, negotiable instruments, securities, or other intangible interest of any nature or description, made without expecting or receiving a resulting value (e.g., goods, services, or some promised action or forbearance) in return.
5. **Forbearance.** A purposeful decision to refrain from acting on something.
6. **Non-Financial Gift.** A voluntary donation of personal property, not including a financial gift, made without expecting or receiving a resulting value (e.g., goods, services, or some promised action or forbearance) in return. Examples include donated works of art, furniture, computers, or other equipment.
7. **Personal Property.** Money, goods, and movable property. (Civ. Code, §§ 14, 657, 663.)
8. **Real Property.** Land, things that are attached or incidental to the land (e.g., buildings, roads, waterways, trees, plants), and things that are immovable by law. (Civ. Code §§ 14, 658.)

6.0 Text

6.1 Introduction

1. Trial courts may accept unsolicited financial and non-financial gifts if doing so would neither create the appearance of partiality nor a conflict of interest for the court and the requirements specified in this policy are met. All expenditures from financial gifts will be exclusively for the benefit of the court, to assist the court in carrying out its public functions and duties, and consistent with any donor conditions or instructions.

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2. Under Rule of Court 6.102, only the Administrative Director of the Courts or the Administrative Director of the Court's designee may accept gifts of real or personal property on behalf of the Judicial Council, the Administrative Office of the Courts, or an individual court. The Administrative Director of the Courts has delegated to the Executive Officers of the trial courts the authority to accept gifts of personal property on behalf of their courts in specified circumstances. (A copy of the Administrative Director of the Court's delegation is included in section 7.0, Associated Documents). The delegation will remain in effect until revoked. The Administrative Director of the Courts may revoke the delegation at any time.
3. The trial court will ensure that its Executive Officer has sufficient information to properly decide on gift acceptance and that such acceptance is consistent with the requirements of this policy.

6.2 Accepting Gifts

1. The Court Executive Officer has the authority to accept unsolicited gifts of personal property on behalf of the court, if the Court Executive Officer concludes that acceptance of the gift and any terms and conditions:
 - a. Is in the best interest of the court and, therefore, the State of California;
 - b. Is consistent with the law, including the California Code of Judicial Ethics;
 - c. Is consistent with the factors developed by the State Department of Finance under Government Code Section 11005.1 (a copy of those factors is included in section 7.0, Associated Documents);
 - d. Is consistent with this policy and any other guidelines that the Administrative Office of the Courts may establish regarding trial court gift acceptance; and
 - e. Does not require assumption of a financial obligation extending more than 12 months beyond the date of acceptance other than reasonable maintenance costs.

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2. No officer or employee of the trial court may for private gain accept or receive money, or other compensation from anyone other than the trial court for the performance of his or her trial court duties. Nor may any officer or employee of the trial court solicit, accept, or receive any gift from a private individual or entity doing or seeking to do business with the court.

6.2.1 Criteria to be Considered Prior to Gift Acceptance

The Court Executive Officer may only accept a gift on behalf of the court if the Court Executive Officer concludes that acceptance is in the best interest of the court, and would not create the appearance of partiality or a conflict of interest for the court. To make this determination, the Court Executive Officer will obtain and consider the following information:

- a. The prospective donor's name and address;
- b. A description of the gift;
- c. The value of the gift (i.e., the amount of a financial gift, or the donor-estimated fair market value² or appraisal provided by the donor of a non-financial gift exceeding \$5,000);
- d. The estimated costs (if any) that the court expects to incur as a result of accepting the gift (e.g., needed repairs, periodic maintenance, matching costs, accessories, connection fees, etc.) and the approximate dates or intervals on which the court expects to incur each cost;
- e. Advantages and disadvantages to the court of accepting the gift;
- f. The prospective donor's conditions or instructions concerning the use of the gift and disposition of any residual balance;
- g. Whether the prospective donor currently does or is seeking to do business with the court;

² The trial court will not affirm the donor-estimated fair market value.

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- h. Whether acceptance of the gift would create the appearance of undue influence or a conflict of interest for the court, or would impair public confidence in its integrity or impartiality; and
- i. Whether the prospective donor's publicly endorsed values or policies conflict with the court's values or policies.

6.2.2 Unacceptable Gifts

The trial court should not accept a gift if:

- a. Acceptance would require the court to assume an expense (other than reasonable maintenance costs) or financial liability extending more than 12 months beyond the date of acceptance;
- b. The gift would cost more to administer than the value of the gift to the court, or would be burdened by unreasonable restrictions or conditions;
- c. A condition of the gift would be that the court use or display the prospective donor's name or logo;
- d. The prospective donor currently is, or is reasonably likely to come, before the court in litigation, either as a party or attorney (e.g., companies that conduct business in the court's jurisdiction);
- e. The donor's interests or the interests of the donor's funding sources currently are, or are reasonably likely to come, before the court (for example, associations whose members are affiliated with a particular side in litigation [e.g., landlords, plaintiff's bar] or with a social or political cause that reasonably could come before the court); or
- f. The publicly endorsed values or policies of the donor conflict with those of the court or are controversial (e.g., a private entity that maintains a policy of, or publicly has been accused of, discriminating based on race, gender, or other illegitimate criteria).

6.2.3 How Gifts Are to be Used

The court will use any gifts that it accepts exclusively for the benefit of the court, to assist the court in carrying out its public functions and duties, and in a manner that is consistent with any donor conditions or instructions.

6.2.4 Designation of Gifts of Personal Property

All financial gifts regardless of value, should be made payable to the trial court. Donors may choose to have their gift fully expended or endowed, and may direct their gift to a department within the trial court provided that:

- a. Nothing of value, benefit, influence, or consideration accrues or is promised to the donor as a result of the gift; and
- b. The directed gift does not benefit any person dealing at arm's length with the donor.

6.3 Processing Gifts

The trial court will ensure that its officers and staff follow the procedures set forth below in processing all gifts.

1. The Court Executive Officer or a designee will document the court's acceptance of each gift, the date that the court received the gift, the name and address of the donor, a description of the gift, the value of the gift (i.e., the amount of financial gifts or the donor-estimated fair market value or appraisal provided by the donor of a non-financial gift exceeding \$5,000), and any donor conditions or instructions.
2. Any personal property that the trial court may acquire through gifts belongs to the court, regardless of value, and, as such, will be accounted for in the inventory and accounting records of the trial court, as appropriate.

3. Financial gifts will be segregated in the court's accounting records. Moreover, deposits and expenditures of financial gifts will be maintained, monitored, and accounted for separately.
4. Gifts will be used exclusively for the benefit of the court, to assist the court in carrying out its public functions and duties, and in a manner that is consistent with any donor conditions and instructions.
5. Upon acceptance of a gift, the trial court will issue a written acknowledgement to the donor containing the following information:
 - a. The name, address, and federal tax ID number of the trial court;
 - b. The donor's name and address;
 - c. The amount of a financial gift or the donor-estimated fair market value or appraisal of a non-financial gift and, if the fair market value of a non-financial gift exceeds \$5,000, the name and address of the appraiser (the donor should provide a copy of the appraisal to the court, if available);
 - d. The date that the court received the gift;
 - e. A statement that the court did not solicit the gift and nothing of value, benefit, influence, or consideration was or will be promised or given as a result of the gift; and
 - f. A statement that the gift will be used exclusively for the benefit of the court and the State of California, to support and assist the court in carrying out its public functions and duties, and in a manner that is consistent with any donor conditions or instructions.

6.4 Gift Monitoring and Reporting

1. The trial court will monitor actual financial gift expenditures against its available financial gift resources on a regular basis. Financial gift expenditures will not exceed available resources and will be used exclusively for the purpose for which they were originally donated.

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2. On a quarterly basis, the trial court will prepare and submit to the AOC Office of Budget Management a report of gifts that the court accepted during the preceding quarter. The report will include:
 - a. All donor names and addresses;
 - b. The date on which the court received each gift;
 - c. A description of each gift;
 - d. The value of each gift (i.e., the amount of each financial gift, and the donor-estimated fair market value or appraisal of each non-financial gift);
 - e. A list of the costs that the court expects to incur as a result of accepting each gift (e.g., needed repairs, periodic maintenance, matching costs, accessories, connection fees, etc.) and the approximate dates or intervals on which the court expects to incur each cost;
 - f. Any donor conditions or instructions concerning the use of an individual gift and the disposition of any residual balance;
 - g. A statement confirming that the court has determined, in each instance, that the donors currently do not, and are not seeking to, do business with the court;
 - h. A statement confirming that the court has determined, in each instance, that acceptance of the gifts will not create the appearance of undue influence or a conflict of interest, and will not impair public confidence in the court's integrity or impartiality; and
 - i. A statement confirming that the court has concluded, in each instance, that the donors' publicly endorsed values and policies do not conflict with the court's policies or goals.

3. The trial court will follow any additional instructions regarding gift reporting that the AOC's Office of Budget Management may issue.

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4. The Court Executive Officer will review and approve all quarterly reports regarding gift acceptance before they are submitted. The court will send those quarterly reports to the AOC by the dates established by the AOC's Office of Budget Management.
5. The trial court will retain for its records copies of all quarterly gift acceptance reports that it submits.

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7.0 Associated Documents

A copy of the Administrative Director of the Courts Delegation

A copy of the Factors Developed by the State Department of Finance under
Government Code Section 11005.1

Sample Written Acknowledgement for Financial Gifts

Sample Written Acknowledgement for Non-Financial Gifts

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**Delegation of Authority to Accept Gifts
Under California Rules of Court, Rule 6.102(b)(1)**

Pursuant to rule 6.102(b)(1) of the California Rules of Court, I hereby delegate to the executive officer of each superior court of the State of California the authority to accept any gift of personal property (i.e., money, goods, or other movable property, see Civ. Code, §§ 14, 657) on behalf of his or her court, if the executive officer finds that acceptance of the gift and any terms and conditions:

1. Is in the best interest of the court and, therefore, the State; and
2. Is consistent with:
 - a. the law, including the California Code of Judicial Ethics,
 - b. the factors developed by the state Department of Finance under Government Code section 11005.1, and
 - c. any guidelines established by the Administrative Office of the Courts; and
3. Does not require assumption of a financial obligation extending more than 12 months beyond the date of acceptance other than reasonable maintenance costs.

Courts must properly document and report to the AOC all gifts that they accept pursuant to this delegation, according to the guidelines set forth in the *Trial Court Financial Policies and Procedures Manual*. The ability to accept gifts of real property is not included in this delegation.

This delegation replaces my earlier delegation of the same authority, which I executed on February 13, 2002 pursuant to former rule 989.7 of the California Rules of Court.

Dated: _____

WILLIAM C. VICKREY
 Administrative Director of the
 Courts

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GIFTS BY AND TO THE STATE

GIFTS BY THE STATE

Article XVI, Section 6 of the State Constitution prohibits the State or any of its political subdivisions from making gifts to private parties. It states that the Legislature shall have no power to:

- Give or lend the credit of the State or any political subdivision or to pledge the credit for payment of liabilities.
- Make any gift of any public money or thing of value.

GIFTS TO THE STATE

A. Statutory Provisions

Government Code 11005 - Provides that the Director of Finance shall approve every gift to the State of personal property or real property unless the Legislature specifically provides that approval is not required (Various departments have been specifically authorized by the Legislature to receive personal or real property without Finance approval.) **This approval requirement does not apply to unconditional gifts of money.** (Note: Many departments overlook their own authority to accept unconditional gifts of money.)

Government Code 11005.1 - Provides that the Director of Finance may accept on behalf of the State any gift of real or personal property whenever such gift is deemed to be in the best interest of the State.

Government Code 16302 - Provides that if a donor designates a monetary gift to the State for the benefit of a fund or appropriation, the donation shall be credited accordingly. Provides that a monetary gift not designated for any specific fund or appropriation shall be credited to the State School Fund. Although the law limits this designation to a fund or appropriation, donors have designated the purpose or program to benefit from a donation and the State has credited the money accordingly.

Government Code 8647 - Provides for the State and any political subdivision to accept from the federal government services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of the mitigation of the effects of an emergency.

B. DOF Process

Requests for acceptance of gifts of either personal property or real property (Government Code Sections 11005 and 11005.1) must be approved by the Director. This acceptance has been delegated in accordance with the Department of Finance Administrative Policy Manual - Delegation System.

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In processing a gift donation request, Finance staff should obtain the following information.

- Description of gift.
- What is the value of gift (It may also be advisable to request an assessment from by an independent estimator for gifts with high value.)
- What will be the estimated costs to the Department by the acceptance of the gift (including needed repairs, matching costs accessories, periodic/regular maintenance, etc.)?
- Why should the State accept the gift? Present advantages and disadvantages of acceptance of the gift.
- What are the donor's wishes or instructions concerning the use of the gift and disposition of residue balance, if any?
- Donor's name and address.

Prepare the staff recommendation for acceptance or rejection of the gift, using the significant points learned.

Attached is a copy of new Form DF - which may be used by departments to request Finance approval to accept an offer of a gift. The form can also be used by the Finance budget unit to make a recommendation to the Capitol Office (delegation for approval is to the Assistant Director) on acceptance of the gift.

In lieu of the form, Finance may request departments to submit their requests in whatever format deemed appropriate. The recommendation to the Capitol Office may also be via letter or other appropriate format.

C. Department of General Services (DGS)

When a state agency wishes to accept a gift of real property, DGS's Real Estate Services Division must also approve the proposed gift. See SAM Section 8634.

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SAMPLE WRITTEN ACKNOWLEDGEMENT for FINANCIAL GIFTS

WRITTEN ACKNOWLEDGEMENT Financial Gift

Donation Information

Date Court Received Gift: _____
 Donation to Superior Court of California, County of _____
 Court Address: _____
 Court Telephone Number: _____
 Court's Federal Tax ID #: _____
 Donation Amount: _____ Check ☐ Check #
 Cash ☐
 Other: _____
 Purpose of Donation: The donor has expressed a desire that this gift benefit the Superior Court of California, County of _____, and that the gift be used to support and assist the court in carrying out its public function and duties.

Donor Conditions or Instructions:

The court did not solicit this gift. Nothing of value, benefit, influence, or consideration was, or will be, promised or given as a result of the gift. The court will use this financial gift exclusively for the benefit of the court, to support and assist the court in carrying out its public functions and duties, and in a manner that is consistent with any donor conditions or instructions set forth above.

Donor Information

Name (Donor): _____
 Address: _____
 Telephone Number: _____

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Issued By: _____ **Title:** _____

Date Issued: _____

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SAMPLE WRITTEN ACKNOWLEDGEMENT for
NON-FINANCIAL GIFTS

WRITTEN ACKNOWLEDGEMENT
Non-Financial Gift

Donation Information

Date Court Received Gift: _____

Donation to Superior Court of California, County of _____

Court Address: _____

Court Telephone Number: _____

Court's Federal Tax ID #: _____

Proof of Value/Receipts Attached: Yes___ No___

If "No", Est. Value of Gift³: _____

Appraisal Completed: Yes___ No___ Name of Appraiser: _____

Appraisal Attached: Yes___ No___ Address of Appraiser: _____

Description of Donation: _____

Purpose of Donation: The donor has expressed a desire that this gift benefit the Superior Court of California, County of _____, and that the gift be used to support and assist the court in carrying out its public functions and duties.

Donor Instructions or Conditions:

The court did not solicit this gift. Nothing of value, benefit, influence, or consideration was, or will be, promised or given as a result of this gift. The court will use this non-financial gift exclusively for the benefit of the court, to support and assist the court in carrying out its public functions and duties, and in a manner that is consistent with any donor conditions or instructions set for above.

³ The trial court will not affirm the donor-estimated fair market value.

Donor Information

Name (Donor): _____

Address: _____

Telephone Number: _____

Issued By: _____ **Title:** _____

Date Issued: _____